

REMARKS

Responsive to the Office Action mailed November 6, 2008, Applicants provide the following. Claims 14, 20 and 28 have been amended without adding any new matter. Claims 15-19 were previously canceled. Therefore, Twenty-three (23) Claims remain pending in the application: Claims 1-12, 14 and 20-29. Reconsideration of Claims 1-12, 14 and 20-29 in view of the amendments above and remarks below is respectfully requested.

Initially, Applicants acknowledge with appreciation the Examiner's willingness to take part in the telephonic interview on September 4, 2008.

By way of this amendment, Applicants have made a diligent effort to place the Claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

Summary of Applicant Initiated Examiner Interview

1. Per 37 CFR § 133(b), the following is a brief summary of the Examiner interview conducted September 4, 2008 via telephone between Steven M. Freeland, Attorney of Record, and Examiner Jacob F. Betit.

The amendments to Claim 1 filed May 19, 2008 were discussed. Specifically, the amendments to Claim 1 showing text with both strike-through and underlining were discussed. No other Claims were specifically discussed, no prior art or references were discussed and no exhibits were presented.

Claim Rejections – 35 U.S.C. §112

Claims 1-14 and 20-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully traverse this rejection in that the Application as filed provides full support for the limitations as recited in the currently pending Claims. As stated by the Applicants in response to the Advisory Action mailed June 4,

2008 the specification provides full support for the limitations as recited in at least Claims 1-14 and 20-29.

Claim 1, for example, recites in part “searching for an event profile corresponding to the event wherein the searching is done without using a time or date.” The Examiner suggests that recited subject matter “was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors at the time the application was filed, had possession of the Claimed invention.” Applicants respectfully submit that the Specification on at least page 13, lines 14-21 introduce the flow diagrams depicted in FIGS. 5-8, and specifically recites:

The blocks within the flow diagrams can be performed in a different sequence without departing from the spirit of the methods and apparatuses for capturing and storing content related to an event. Further, blocks can be deleted, added, or combined without departing from the spirit of the methods and apparatuses for capturing and storing content related to an event.
(Application as filed, page 13, lines 16-21, emphasis added).

FIG. 5, for example, of the Application as filed specifically includes step 540 specifying “Detecting Content Author,” and step 560 specifying “Detecting Capture Location of Content.” The fact that step 550 is excluded is specifically specified in the Application as filed in introducing FIGS. 5-8 and stating that one or more steps, such as step 550, may be excluded. Therefore, the Application as filed provides full support for the Claim limitations amended into the Claims.

Applicants further respectfully submit that the Specification as filed demonstrates that the Applicants had possession of the Claimed invention. The fact that the Specification specifically identifies that steps may be deleted demonstrates that the Applicants contemplated associating content with an event without date or time information (for example, by deleting step 550). Additionally, the Specification as filed conveys to one of skill in the relevant art that the inventors, at the time the application was filed, had possession of the Claimed invention, including, for example, associating content with an event without the use of date or time information.

The suggested “negative limitation” of “without” as indicated in the Advisory Action has express support and provides a basis in the Specification as filed, at least on page 13, lines 16-21. Further, “[i]f alternative elements are positively recited in the specification, they may be explicitly excluded in the Claims” (MPEP 2173, citing *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977), and *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983)). The Specification as filed positively recites at least, with respect to FIG. 5, detecting content author, capture time and capture location. Additionally, the Specification as filed specifically recites that one or more steps can be deleted from the process, for example, as depicted in FIG. 5. Therefore, Applicants respectfully submit that this limitation has express support in the Specification as filed, and thus, satisfy at least 35 U.S.C. 112, first paragraph.

Furthermore, the Examiner states that the “content categorization module” of Claim 20 cannot be seen in any figures 5-8. However, the content categorization module 320 is described and depicted at least in Fig. 3 and page 11 of the specification, and Fig. 5 and the accompanying description recite the process by which the content categorization module 320 categorizes the content, in one embodiment. Therefore, Applicants respectfully submit that this limitation has express support in the Specification as filed, and thus, satisfy at least 35 U.S.C. 112, first paragraph.

Claim Rejections – 35 U.S.C. 101

Claims 14 and 20-24 are rejected under 35 U.S.C. 101 because the Claimed invention is directed to non-statutory subject matter. Specifically, the Examiner suggests that the system as Claimed in at least Independent Claims 14 and 20 is intended to be made entirely of software and further suggests that software is not within any of the categories of patentable subject matter. Applicants respectfully traverse this rejection and submit that at least the storage module recited in both Claims 14 and 20 must comprise at least in part a tangible component. As described in the specification and recited in the Claims the storage module is used to store the content and the event (Claim 14) or a record containing an event profile (Claim 20) (see Specification, pages 9 and 11). Therefore, the storage module contains at least some tangible component to facilitate

storing of the event profile and/or the content and the event. Accordingly, Applicants respectfully submit that Claims 14 and 20-24 as recited contain patentable subject matter, and thus, Applicants respectfully request that the rejection be withdrawn.

Claim Rejections - 35 U.S.C. §102

Claims 26 and 27 stand rejected under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent Application Publication No. 2003/0050982 (Chang). Applicants respectfully traverse these rejections in that at least independent Claim 26 is not anticipated by Chang.

More specifically, Chang is specifically directed to annotating data with a time value (see Chang, Paragraph 1). Further, Figures 2 and 3 also expressly recite the steps of acquiring a time stamp 202, 302 and sending the time stamp to a calendar 204, 304. Therefore, Applicants respectfully submit that at least Claims 26 is not anticipated by the Chang reference.

Similarly, Claims 27 depends from Claim 26, and thus, Claim 27 is also patentable over the applied Chang reference due at least to their dependency on allowable Claim 26.

Claim Rejections - 35 U.S.C. §103

Claims 1-14, 20-25 and 29 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the Chang reference in view of U.S. Patent Application Publication No. 2003/0184653 (Ohkubo). Applicants respectfully traverse these rejections and submit that the combination of Chang and Ohkubo fails to describe or suggest each limitation as recited in at least independent Claims 1, 14, 20 and 25.

The Examiner submits that the Chang reference does not describe or suggest at least “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” as recited in at least Claim 1, and relies on Ohkubo as describing this limitation. However, Ohkubo fails to describe or suggest this limitation. Ohkubo specifically describes using calendar information C0 to categorize events, wherein the calendar information comprises a date and time (see for example Ohkubo, para. [0063]). The Examiner cites to a specific embodiment of Ohkubo where calendar information is not explicitly available.

However, the period inference method described in the cited portion uses the tag information which includes the “photography date information” to infer the period of time in which the event occurred (Ohkubo, [0097]). As such, Ohkubo fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” and instead uses the date information to infer the period in which an event occurred. Therefore, the combination of Chang and Ohkubo fails to describe or suggest each limitation as recited in at least independent Claim 1, and therefore, fails to render at least Claim 1 obvious.

Claims 14, 20 and 25 recite language similar to that of Claim 1 at least with respect to categorizing content without using a time or a date. Therefore, these Claims are also not obvious in view of the above cited combination at least for the reasons discussed above.

Claims 2-13, 21-24 and 29 depend from allowable Claims 1, 20 and 25 respectively. Therefore, these Claims are also not obvious in view of the Chang and Ohkubo combination at least due to their dependence on allowable Claims.

CONCLUSION

Applicants submit that the above amendments and remarks place the pending Claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Respectfully submitted,

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